

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 371
91ST GENERAL ASSEMBLY

Reported from the Committee on Miscellaneous Bills and Resolutions, April 26, 2001, with recommendation that the House Committee Substitute for Senate Bill No. 371 Do Pass.

TED WEDEL, Chief Clerk

1480L.03C

AN ACT

To repeal sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, relating to certain public retirement systems administered pursuant to chapter 104, RSMo, and to enact in lieu thereof thirty-five new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.601, 104.602, 104.625, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093, 104.1200, 104.1205, 104.1210, 104.1215, 476.517 and 476.524, to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 account and interest allowed thereon;

6 (2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

7 (3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial
8 tables and interest, is equal in value to a certain amount or other benefit;

9 (4) "Actuarial tables", the actuarial tables approved and in use by a board at any given
10 time;

11 (5) "Actuary", the actuary who is a member of the American Academy of Actuaries or
12 who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who
13 is employed by a board at any given time;

14 (6) "Annuity", annual payments, made in equal monthly installments, to a retired
15 member from funds provided for in, or authorized by, this chapter;

16 (7) "Average compensation", the average compensation of a member for the thirty-six
17 consecutive months of service prior to retirement when the member's compensation was greatest;
18 or if the member is on workers' compensation leave of absence or a medical leave of absence due
19 to an employee illness, the amount of compensation the member would have received may be
20 used, as reported and verified by the employing department; or if the member had less than
21 thirty-six months of service, the average annual compensation paid to the member during the
22 period up to thirty-six months for which the member received creditable service when the
23 member's compensation was the greatest; or if the member is on military leave, the amount of
24 compensation the member would have received may be used as reported and verified by the
25 employing department or, if such amount is not determinable, the amount of the employee's
26 average rate of compensation during the twelve-month period immediately preceding such period
27 of leave, or if shorter, the period of employment immediately preceding such period of leave;

28 (8) "Beneficiary", any person entitled to or nominated by a member or retiree who may
29 be legally entitled to receive benefits pursuant to this chapter;

30 (9) "Biennial assembly", the completion of no less than two years of creditable service
31 or creditable prior service by a member of the general assembly;

32 (10) "Board of trustees", "board", or "trustees", a board of trustees as established for the
33 applicable system pursuant to this chapter;

34 (11) "Chapter", sections 104.010 to 104.800;

35 (12) "Compensation":

36 (a) All salary and wages payable out of any state, federal, trust, or other funds to an
37 employee for personal services performed for a department; but including only amounts for
38 which contributions have been made in accordance with section 104.436, or section 104.070,
39 whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid
40 after the member's termination of employment unless such amounts paid after such termination

41 are a final installment of salary or wages at the same rate as in effect immediately prior to
42 termination of employment in accordance with a state payroll system adopted on or after
43 January 1, 2000, or any other one-time payments made as a result of such payroll system;

44 (b) All salary and wages which would have been payable out of any state, federal, trust
45 or other funds to an employee on workers' compensation leave of absence during the period the
46 employee is receiving a weekly workers' compensation benefit, as reported and verified by the
47 employing department;

48 (c) Effective December 31, 1995, compensation in excess of the limitations set forth in
49 Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation
50 for eligible employees shall not be less than the amount which was allowed to be taken into
51 account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee"
52 is an individual who was a member of the system before the first plan year beginning after
53 December 31, 1995;

54 (13) "Consumer price index", the Consumer Price Index for All Urban Consumers for
55 the United States, or its successor index, as approved by a board, as such index is defined and
56 officially reported by the United States Department of Labor, or its successor agency;

57 (14) "Creditable prior service", the service of an employee which was either rendered
58 prior to the establishment of a system, or prior to the date the employee last became a member
59 of a system, and which is recognized in determining the member's eligibility and for the amount
60 of the member's benefits under a system;

61 (15) "Creditable service", the sum of membership service and creditable prior service,
62 to the extent such service is standing to a member's credit as provided in this chapter; except that
63 in no case shall more than one day of creditable service or creditable prior service be credited any
64 member for any one calendar day of eligible service credit as provided by law;

65 (16) "Deferred normal annuity", the annuity payable to any former employee who
66 terminated employment as an employee or otherwise withdrew from service with a vested right
67 to a normal annuity, payable at a future date;

68 (17) "Department", any department[, institution, board, commission, officer, court, or
69 any agency of the state government receiving state appropriations, including allocated funds from
70 the federal government, and having power to certify payrolls authorizing payments of salary or
71 wages against appropriations made by the federal government or the state legislature from any
72 state fund, or against trusts or allocated funds held by the state treasurer] **or agency of the
73 executive, legislative or judicial branch of the state of Missouri receiving state
74 appropriations, including allocated funds from the federal government but not including
75 any body corporate or politic unless its employees are eligible for retirement coverage from
76 a system pursuant to this chapter as otherwise provided by law;**

77 (18) "Disability benefits", benefits paid to any employee while totally disabled as
78 provided in this chapter;

79 (19) "Early retirement age", a member's attainment of fifty-five years of age and the
80 completion of ten or more years of creditable service, except for uniformed members of the water
81 patrol;

82 (20) "Employee":

83 (a) Any elective or appointive officer or person employed by the state who is employed,
84 promoted or transferred by a department into a new or existing position and earns a salary or
85 wage in a position normally requiring the performance by the person of duties during not less
86 than one thousand hours per year, including each member of the general assembly but not
87 including any patient or inmate of any state, charitable, penal or correctional institution.
88 **Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the**
89 **twelve-month period beginning on the first day of employment.** However, persons who are
90 members of the public school retirement system and who are employed by a state agency other
91 than an institution of higher learning shall be deemed employees for purposes of participating
92 in all insurance programs administered by a board established pursuant to section 104.450. This
93 definition shall not exclude any employee as defined in this subdivision who is covered only
94 under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter,
95 the term "employee" shall include:

96 a. Persons who are currently receiving annuities or other retirement benefits from some
97 other retirement or benefit fund, so long as they are not simultaneously accumulating creditable
98 service in another retirement or benefit system which will be used to determine eligibility for or
99 the amount of a future retirement benefit;

100 b. Persons who have elected to become or who have been made members of a system
101 pursuant to section 104.342;

102 (b) Any person who has performed services in the employ of the general assembly or
103 either house thereof, or any employee of any member of the general assembly while acting in the
104 person's official capacity as a member, and whose position does not normally require the person
105 to perform duties during at least one thousand hours per year, with a month of service being any
106 monthly pay period in which the employee was paid for full-time employment for that monthly
107 period;

108 (c) "Employee" does not include special consultants employed pursuant to section
109 104.610;

110 (d) As used in this chapter, the hours governing the definition of employee shall be
111 applied only from August 13, 1988, forward;

112 (e) **The system shall consider a person who is employed in multiple positions**

113 **simultaneously within a single agency to be working in a single position for purposes of**
114 **determining whether the person is an employee as defined in this subdivision;**

115 (21) "Employer", a department of the state;

116 (22) "Executive director", the executive director employed by a board established
117 pursuant to the provisions of this chapter;

118 (23) "Fiscal year", the period beginning July first in any year and ending June thirtieth
119 the following year;

120 (24) "Full biennial assembly", the period of time beginning on the first day the general
121 assembly convenes for a first regular session until the last day of the following year;

122 (25) "Fund", the benefit fund of a system established pursuant to this chapter;

123 (26) "Interest", interest at such rate as shall be determined and prescribed from time to
124 time by a board;

125 (27) "Member", as used in sections 104.010 to 104.272 or 104.600 to 104.800 shall mean
126 a member of the highways and transportation employees' and highway patrol retirement system
127 without regard to whether or not the member has been retired. "Member", as used in sections
128 104.010 and 104.312 to 104.800, shall mean a member of the Missouri state employees'
129 retirement system without regard to whether or not the member has been retired;

130 (28) "Membership service", the service after becoming a member that is recognized in
131 determining a member's eligibility for and the amount of a member's benefits under a system;

132 (29) "Military service", all active service performed in the United States Army, Air
133 Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health
134 Service or any women's auxiliary thereof; and service in the Army national guard and Air
135 national guard when engaged in active duty for training, inactive duty training or full-time
136 national guard duty, and service by any other category of persons designated by the President in
137 time of war or emergency;

138 (30) "Normal annuity", the annuity provided to a member upon retirement at or after the
139 member's normal retirement age;

140 (31) "Normal retirement age", an employee's attainment of sixty-five years of age and
141 the completion of four years of creditable service or the attainment of age sixty-five years of age
142 and the completion of five years of creditable service by a member who has terminated
143 employment and is entitled to a deferred normal annuity or the member's attainment of age sixty
144 and the completion of fifteen years of creditable service, except that normal retirement age for
145 uniformed members of the highway patrol shall be fifty-five years of age and the completion of
146 four years of creditable service and uniformed employees of the water patrol shall be fifty-five
147 years of age and the completion of four years of creditable service or the attainment of age
148 fifty-five and the completion of five years of creditable service by a member of the water patrol

149 who has terminated employment and is entitled to a deferred normal annuity and members of the
150 general assembly shall be fifty-five years of age and the completion of three full biennial
151 assemblies. Notwithstanding any other provision of law to the contrary, a member of the
152 highways and transportation employees' and highway patrol retirement system or a member of
153 the Missouri state employees' retirement system shall be entitled to retire with a normal annuity
154 and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any
155 other provisions of this chapter that relate to retirement with a normal annuity if the sum of the
156 member's age and creditable service equals eighty years or more and if the member is at least
157 fifty years of age;

158 (32) "Payroll deduction", deductions made from an employee's compensation;

159 (33) "Prior service credit", the service of an employee rendered prior to the date the
160 employee became a member which service is recognized in determining the member's eligibility
161 for benefits from a system but not in determining the amount of the member's benefit;

162 (34) "Reduced annuity", an actuarial equivalent of a normal annuity;

163 (35) "Retiree", a member who is not an employee and who is receiving an annuity from
164 a system pursuant to this chapter;

165 (36) "System" or "retirement system", the highways and transportation employees' and
166 highway patrol retirement system, as created by sections 104.010 to 104.270, or sections 104.600
167 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320
168 to 104.800;

169 (37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel,
170 majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the
171 Missouri state highway patrol who normally appear in uniform;

172 (38) "Uniformed members of the water patrol", employees of the Missouri state water
173 patrol of the department of public safety who are classified as water patrol officers who have
174 taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those
175 peace officer powers given by the provisions of chapter 306, RSMo;

176 (39) "Vesting service", the sum of a member's prior service credit and creditable service
177 which is recognized in determining the member's eligibility for benefits under the system.

178 2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations
179 of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by
180 reference.

104.170. 1. The board shall elect by secret ballot one member as [chairman] **chair** and
2 one member as vice [chairman] **chair** in January of each year. The [chairman] **chair** may not
3 serve more than two consecutive terms beginning after August 13, 1988. The [chairman] **chair**
4 shall preside over meetings of the board and perform such other duties as may be required by

5 action of the board. The vice [chairman] **chair** shall perform the duties of the [chairman] **chair**
6 in the absence of the latter or upon [his] **the chair's** inability or refusal to act.

7 2. The board shall appoint a full-time executive director, who shall not be compensated
8 for any other duties under the **state** highways and transportation commission. The executive
9 director shall have charge of the offices and records and shall hire such employees that [he] **the**
10 **executive director** deems necessary subject to the direction of the board. **The executive**
11 **director and all other employees of the system shall be members of the system and the**
12 **board shall make contributions to provide the insurance benefits available pursuant to**
13 **section 104.270 on the same basis as provided for other state employees pursuant to the**
14 **provisions of section 104.515, and also shall make contributions to provide the retirement**
15 **benefits on the same basis as provided for other employees pursuant to the provisions of**
16 **sections 104.090 to 104.260.**

17 3. Any summons or other writ issued by the courts of the state shall be served upon the
18 **executive** director or, in [his] **the executive director's** absence, on the assistant director.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection 2 of section
2 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary
3 notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant
4 to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August
5 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and
6 retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476,
7 RSMo, between the parties to any action for dissolution of marriage. A division of benefits order
8 issued pursuant to this section:

9 (1) Shall not require the applicable retirement system to provide any form or type of
10 annuity **or retirement plan** not selected by the member and not normally made available by that
11 system;

12 (2) Shall not require the applicable retirement system to commence payments until the
13 member submits a valid application for an annuity and the annuity becomes payable in
14 accordance with the application;

15 (3) Shall identify the monthly amount to be paid to the alternate payee, which shall **be**
16 **expressed as a percentage and which shall** not exceed fifty percent of the amount of the
17 member's annuity accrued during **all or part of** the time while the member and alternate payee
18 were married; and **which shall be** based on the member's vested annuity on the date of the
19 dissolution of marriage **or an earlier date as specified in the order**, [and the] **which** amount
20 shall be adjusted proportionately if the member's annuity is reduced due to early retirement **and**
21 **the percentage established shall be applied to the pro rata portion of any lump sum**
22 **distribution pursuant to subsection 6 of section 104.335, accrued during the time while the**

23 **member and alternate payee were married;**

24 (4) Shall not require the payment of an annuity amount to the member and alternate
25 payee which in total exceeds the amount which the member would have received without regard
26 to the order;

27 (5) Shall provide that any benefit formula increases, additional years of service,
28 increased average compensation or other type of increases accrued after the date of the
29 dissolution of marriage shall accrue solely to the benefit of the member[,]; except that **on or**
30 **after September 1, 2001, any annual benefit [increases] increase** shall [be applied to the
31 amount received by both the member and the alternate payee] **not be considered to be an**
32 **increase accrued after the date of termination of marriage and shall be part of the monthly**
33 **amount subject to division pursuant to any order issued after September 1, 2001;**

34 (6) Shall terminate upon the death of either the member or the alternate payee, whichever
35 occurs first;

36 (7) Shall not create an interest which is assignable or subject to any legal process;

37 (8) Shall include the name, address and Social Security number of both the member and
38 the alternate payee, and the identity of the retirement system to which it applies;

39 (9) Shall be consistent with any other division of benefits orders which are applicable
40 to the same member.

41 2. A system established by this chapter shall provide the court having jurisdiction of a
42 dissolution of marriage proceeding or the parties to the proceeding with information necessary
43 to issue a division of benefits order concerning a member of the system, upon written request
44 from [the court or the parties] **either the court, the member or the member's spouse**, which
45 cites this section and identifies the case number and parties.

46 3. A system established by this chapter shall have the discretionary authority to reject a
47 division of benefits order for the following reasons:

48 (1) The order does not clearly state the rights of the member and the alternate payee;

49 (2) The order is inconsistent with any law governing the retirement system.

50 **4. The amount paid to an alternate payee under an order issued pursuant to this**
51 **section shall be based on what the member would have received had the member elected**
52 **coverage under the closed plan pursuant to section 104.1015 regardless of the actual**
53 **election made by the member pursuant to that section; except that any annual benefit**
54 **increases subject to division shall be based on the actual annual benefit increases received**
55 **after the retirement plan election.**

104.330. 1. As an incident to his **or her** contract of employment or continued
2 employment, each employee of the state shall become a member of the system on the first day
3 of the first month following the original effective date of sections 104.310 to 104.540,

4 September 1, 1957, and every person thereafter becoming an employee shall become a member
5 at the time of employment. Each employee's membership shall continue as long as the member
6 continues to be an employee or be on leave for military service or training as hereinafter
7 provided; or receive or be eligible to receive an annuity or benefit.

8 2. [Any military service or training completed prior to December 3, 1974, must be that
9 to which an employee shall have become obligated, either irrespective of the member's consent
10 under the mandatory provisions of law, or as a volunteer while the United States is engaged in
11 actual active armed warfare, if within ninety days after becoming eligible for release from this
12 service obligation, the member shall have reentered the employment of a department, and within
13 the number of months after such reemployment which is equal to the number of months the
14 member was in the service, shall have paid into the fund, in addition to the member's current
15 payroll deductions, the actuarial equivalent, at the time the payments are completed, of all payroll
16 deductions at the salary rate which the member was receiving when the member went on leave
17 and which would have been made if the member had been an employee at this rate continuously
18 up to the time of reentering employment.] Any **member who completes** military service or
19 training [completed] on or after December 3, 1974, [must be that to which the employee's
20 reemployment rights were guaranteed] **shall receive creditable service and salary credit**
21 **mandated** by federal law under the Vietnam Era Veteran's Readjustment Act of 1974 **and the**
22 **Uniformed Services Employment and Reemployment Rights Act of 1994** or any successor
23 thereto, [if the member shall have reentered the employment of a department after the member's
24 release from military service or training within the time prescribed by such law] **or as otherwise**
25 **provided under federal or state law.**

104.339. 1. Any employee who became a member of the system, on the first day of the
2 first month following the original effective date of sections 104.310 to 104.540, September 1,
3 1957, shall be given creditable prior service with the state. All such creditable prior service must
4 be established to the satisfaction of the board.

5 2. [Any person who, on August 29, 1959, was an employee of the state government and
6 a member of either the transportation department employees' and highway patrol retirement
7 system or the Missouri state employees' retirement system and who, whether or not he became
8 a member of either system on the original effective date of sections 104.310 to 104.540,
9 September 1, 1957, had been since January 7, 1959, continuously in the employ of the state
10 government in positions which would on August 29, 1959, have come under one or the other of
11 the retirement systems, is entitled to credit for all of his prior service with the state whether it
12 was as an employee of the transportation department, highway patrol or any other department
13 as the term is defined in section 104.010.

14 3.] Any member of the system employed on or after August 13, 1988, and who served

15 as an employee prior to September 1, 1957, but was not an employee on that date, shall be
16 entitled to the creditable prior service that such employee would have been entitled to had such
17 employee become a member of the retirement system on the date of its inception[, if such
18 employee has or attains one year of continuous membership service].

104.345. 1. Any circuit clerk holding office or employment as such on or after
2 August 28, 1989, for service rendered as an employee of any county or other political subdivision
3 for the purposes of performing duties for the judicial system, is entitled to creditable prior service
4 [under] **pursuant to** the provisions of this chapter in the Missouri state employees' retirement
5 system, provided such period of service has not been included for purposes of qualification for
6 any other retirement system.

7 2. Any member who was a circuit clerk on July 1, 1980, and whose employment as a
8 circuit clerk terminated prior to October 1, 1989, upon application to the board shall be made,
9 constituted, appointed, and employed by the board as a special consultant on the problems of
10 retirement for the remainder of the person's life. Upon request of the board, the consultant shall
11 give opinions or be available to give opinions in writing or orally in response to such requests.
12 As compensation, the consultant shall receive creditable service for service rendered as a circuit
13 clerk, deputy circuit clerk or division clerk, if:

14 (1) The member does not receive credit for the same period of service under more than
15 one retirement system;

16 (2) The person made application to the board for such creditable prior service within
17 ninety days of October 1, 1989; and

18 (3) The person establishes proof of such service to the satisfaction of the board.
19

20 Such person shall be a member of the Missouri state employees' retirement system and be
21 entitled to a normal annuity or to a deferred normal annuity, based on the person's creditable
22 service and the law in effect at the time service as a circuit clerk was terminated.

23 3. Notwithstanding any provision of law to the contrary, any person who is an employee
24 on August 28, 1990, who was a circuit clerk, deputy circuit clerk or division clerk on June 30,
25 1981, employed by a county which participated in the local government employees' retirement
26 system [under] **pursuant to** sections 70.600 to 70.755, RSMo, or which paid to the Missouri
27 state employees' retirement system to actuarially fund the creditable prior service of such clerk,
28 and such person elected to receive creditable prior service under this system by waiving rights
29 to the person's accumulated contributions made or accrued while such person was a county
30 employee or who made payment to the county as reimbursement for the costs incurred by the
31 county to actuarially fund the creditable prior service for such person which were received by this
32 system [under] **pursuant to** the provisions of this section in effect when such person became a

33 member, upon written application filed with the board, shall be eligible to receive a refund of
34 such accumulated contributions or payment amount. Members receiving such a refund shall not
35 forfeit any service presently credited the member under this system but in no event shall a
36 member receive credit for the same period of service under more than one retirement system.

37 4. Any actively employed member of the Missouri state employees' retirement system
38 on or after August 28, 2000, shall be entitled to creditable prior service for service rendered as
39 a circuit clerk, deputy circuit clerk or division clerk, if:

40 (1) The service had not become vested in a county or city retirement plan;

41 (2) The person made application to the board for such creditable prior service; and

42 (3) The person establishes proof of such service to the satisfaction of the board
43 **including proof that the person worked in a position that normally required at least one**
44 **thousand hours of service per year for service after October 1, 1984, or one thousand five**
45 **hundred hours of service per year for service prior to October 1, 1984.**

104.372. 1. (1) In the event a person who served as a member of the general assembly
2 or in an elective state office on or after September 1, 1976, and who retired after September 1,
3 1976, dies, a survivor's income in an amount equal to fifty percent of the monthly annuity the
4 retired member was receiving at the time of the member's death shall be paid in monthly
5 installments to such deceased retired member's surviving spouse; provided such surviving spouse
6 was married to the deceased retired member of the general assembly or elected official on the
7 date of the member's death; or if there is no surviving spouse eligible to receive such survivor's
8 income, then such survivor's income shall be payable to any children under the age of twenty-one
9 of the deceased member of the general assembly or elective official in equal shares in a total
10 amount equal to such survivor's income that would otherwise have been paid to the surviving
11 spouse until the children reach twenty-one years of age. The benefits shall be funded as provided
12 in section 104.436; or

13 (2) Upon the death of a person who served as a member of the general assembly or in
14 an elective state office on or after September 1, 1976, and who retired pursuant to the provisions
15 of this chapter on or after September 1, 1976, and who terminated employment before August 28,
16 1988, such deceased retired member's surviving spouse, who was married to the deceased retired
17 member on the date of the member's death, may apply to the board of trustees and shall be made,
18 constituted, appointed and employed by the board as a special consultant on the problems of
19 retirement, aging and other state matters for the remainder of the surviving spouse's life, and
20 upon request of the board shall give opinions, and be available to give opinions in writing, or
21 orally, in response to such requests. As compensation for such services, beginning the first of
22 the month following application, such surviving spouse shall receive monthly an amount equal
23 to fifty percent of the monthly annuity the retired member was receiving at the time of the

24 member's death.

25 2. If a member of the general assembly who has served in at least three full biennial
26 assemblies dies before retirement, pursuant to the provisions of sections 104.312 to 104.801, a
27 survivor's benefit shall be paid in an amount equal to fifty percent of the member's accrued
28 annuity calculated as if the member were of normal retirement age as of the member's death. The
29 survivor's benefit shall be paid in monthly installments to such deceased member's surviving
30 spouse; provided such surviving spouse was married to the deceased member of the general
31 assembly on the date of the member's death; or if there is no surviving spouse eligible to receive
32 such survivor's benefit, such survivor's benefit shall be payable to any children under the age of
33 twenty-one of the deceased member of the general assembly in equal shares in a total amount
34 equal to such survivor's benefit that would otherwise have been paid to the surviving spouse until
35 the children reach twenty-one years of age.

36 3. In the event a person who has held one or more statewide state elective offices for a
37 total of at least twelve years, and whose retirement benefits have been calculated and are being
38 paid pursuant to the provisions of section 104.371, dies, a survivor's benefit in an amount equal
39 to fifty percent of the benefits being paid the member pursuant to section 104.371 shall be paid
40 to the member's surviving spouse. The survivor's benefits shall be paid in the manner provided
41 in section 104.371.

42 4. Every member of the state employees' retirement system who had previous state
43 employment by a state agency by virtue of which the person was a member of the public school
44 retirement system of Missouri and has previously withdrawn the person's employee contribution
45 to the public school retirement system shall upon request if qualified pursuant to the provisions
46 of this subsection receive creditable prior service in the state employees' retirement system for
47 such service notwithstanding any other provisions of law. The public school retirement system
48 shall pay to the state employees' retirement system an amount equal to the contribution paid to
49 the public school retirement system on behalf of the employee by the employee's employer, and
50 the commissioner of administration shall pay an equal amount to the state employees' retirement
51 system from funds appropriated from the general revenue fund for such purpose. In no event
52 shall any person receive credit for the same period of service under more than one retirement
53 system.

54 5. Upon the death of a person who served as a member of the general assembly or in an
55 elective state office before September 1, 1976, and who retired and chose a normal annuity
56 pursuant to the provisions of this chapter, such deceased retired member's surviving spouse, who
57 was married to the member on the date of the member's death, may apply to the board of trustees
58 and shall be made, constituted, appointed and employed by the board as a special consultant on
59 the problems of retirement, aging, and other state matters for the remainder of the surviving

60 spouse's life, and upon request of the board shall give opinions, and be available to give opinions
61 in writing, or orally, in response to such requests. As compensation for such services, beginning
62 the first of the month following application, such surviving spouse shall receive monthly an
63 amount equal to fifty percent of the monthly annuity the retired member was receiving at the time
64 of the member's death.

65 **6. Survivor benefits shall be paid pursuant to section 104.420 in lieu of any other**
66 **provisions of this section to the contrary if the member of the general assembly or**
67 **statewide elected official:**

68 **(1) Dies on or after August 28, 2001;**

69 **(2) Had a vested right to an annuity; and**

70 **(3) Was not receiving an annuity.**

71 **7. Survivor benefits shall be paid pursuant to section 104.395 in lieu of any other**
72 **provisions of this section to the contrary if the member of the general assembly or**
73 **statewide elected official elects a survivor benefit option pursuant to section 104.395, and**
74 **dies on or after August 28, 2001.**

104.374. 1. The normal annuity of a member, other than a member of the general
2 assembly or a member who served in an elective state office, shall be an amount equal to one and
3 six-tenths percent of the average compensation of the member multiplied by the number of years
4 of creditable service of the member. Years of membership service and twelfths of a year are to
5 be used in calculating any annuity. Absences for sickness and injury of less than twelve months
6 [or for military service or training under subsection 2 of section 104.330] shall be counted as
7 years of membership service.

8 2. In addition to the amount determined pursuant to subsection 1 of this section, the
9 normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and
10 one-third percent of the benefit.

11 3. Employees who are fully vested at the age of sixty-five years and who continue to be
12 employed by an agency covered under the system or members of the general assembly who serve
13 in the general assembly after the age of sixty-five years shall have added to their normal annuity
14 when they retire or die an amount equal to the total of all annual cost-of-living increases that the
15 retired members of the system received during the years between when the employee or member
16 of the general assembly reached sixty-five years of age and the year that the employee or member
17 of the general assembly terminated employment or died. In no event shall the total increase in
18 compensation granted under this subsection and subsection 2 of section 104.612 exceed
19 sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

104.380. If a retired member is elected to any state office or is appointed to any state
2 office or is employed by a department [in a position normally requiring the performance by the

3 person of duties during not less than one thousand hours per year, the member shall not receive
4 an annuity for any month or part of a month for which the member serves as an officer or
5 employee, but the member shall be considered to be a new employee with no previous creditable
6 service and must accrue creditable service in order to receive any additional annuity. Any retired
7 member who again becomes an employee and who accrues additional creditable service and later
8 retires shall receive an additional amount of monthly annuity calculated to include only the
9 creditable service and the average compensation earned by the member since such employment
10 or creditable service earned as a member of the general assembly. Years of membership service
11 and twelfths of a year are to be used in calculating any additional annuity except for creditable
12 service earned as a member of the general assembly, and such additional annuity shall be based
13 on the type of service accrued. In either event, the original annuity and the additional annuity,
14 if any, shall be paid commencing with the end of the first month after the month during which
15 the member's term of office has been completed, or the member's employment terminated. If a
16 retired member is employed by a department in a position that does not normally require the
17 person to perform duties during at least one thousand hours per year, the member shall not be
18 considered an employee as defined pursuant to section 104.010.] **and works more than one**
19 **thousand hours per year regardless of the number of positions held on or after the first day**
20 **of employment, the retired member shall not receive an annuity or additional creditable**
21 **service for any month or part of a month for which the retired member is so employed.**
22 **The system shall recover any benefit payments received by the retiree during any year that**
23 **the retiree works more than one thousand hours pursuant to section 104.490. The term**
24 **"year" as used in this section shall mean the twelve-month period beginning on the annuity**
25 **starting date and each subsequent year thereafter. The provisions of this section shall**
26 **apply to all retired members employed on or after September 1, 2001, regardless of when**
27 **the retired member was first employed. Any person who is an employee on or after**
28 **August 28, 2001, retires and is subsequently employed in a position covered by the**
29 **highways and transportation employees' and highway patrol retirement system shall not**
30 **be eligible to receive retirement benefits or additional creditable service from the system.**

104.395. 1. In lieu of the normal annuity otherwise payable to a member pursuant to
2 section 104.335, **104.370, 104.371**, 104.374 or 104.400, and prior to the last business day of the
3 month before the annuity starting date pursuant to section 104.401, a member shall elect whether
4 or not to have such member's normal annuity reduced as provided by the options set forth in this
5 section; provided that if such election has not been made within such time, annuity payments due
6 beginning on and after such annuity starting date shall be made the month following the receipt
7 by the system of such election, and further provided, that if such person dies after such annuity
8 starting date but before making such election, no benefits shall be paid except as required

9 pursuant to section 104.420:

10 Option 1. An actuarial reduction approved by the board of the member's annuity in
11 reduced monthly payments for life during retirement with the provision that upon the member's
12 death the reduced annuity at the date of the member's death shall be continued throughout the
13 life of, and be paid to, the member's spouse to whom the member was married at the date of
14 retirement and who was nominated by the member to receive such payments in the member's
15 application for retirement or as otherwise provided [under] **pursuant to** subsection 5 of this
16 section. Such annuity shall be reduced in the same manner as an annuity under option 2 as in
17 effect immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary
18 to receive any final monthly payment due after the death of the surviving spouse; or

19 Option 2. The member's normal annuity in regular monthly payments for life during the
20 member's retirement with the provision that upon the member's death a survivor's benefit equal
21 to one-half the member's annuity at the date of the member's death shall be paid to the member's
22 spouse to whom the member was married at the date of retirement and who was nominated by
23 the member to receive such payments in the member's application for retirement or as otherwise
24 provided [under] **pursuant to** subsection 5 of this section, in regular monthly payments for life.
25 The surviving spouse shall designate a beneficiary to receive any final monthly payment due after
26 the death of the surviving spouse; or

27 Option 3. An actuarial reduction approved by the board of the member's normal annuity
28 in reduced monthly payments for the member's life with the provision that if the member dies
29 prior to the member having received one hundred twenty monthly payments of the member's
30 reduced annuity, the member's reduced annuity to which the member would have been entitled
31 had the member lived shall be paid for the remainder of the one hundred twenty months' period
32 to such person as the member shall have nominated by written designation duly executed and
33 filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such
34 annuity for the remainder of such one hundred twenty months' period shall be paid to the
35 retirant's estate. If such beneficiary dies after the member's date of death but before having
36 received the remainder of the one hundred twenty monthly payments of the retiree's reduced
37 annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period
38 shall be paid to the beneficiary's estate; or

39 Option 4. An actuarial reduction approved by the board of the member's normal annuity
40 in reduced monthly payments for the member's life with the provision that if the member dies
41 prior to the member having received sixty monthly payments of the member's reduced annuity,
42 the member's reduced annuity to which the member would have been entitled had the member
43 lived shall be paid for the remainder of the sixty months' period to such person as the member
44 shall have nominated by written designation duly executed and filed with the board. If there be

45 no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such
46 sixty months' period shall be paid to the retirant's estate. If such beneficiary dies after the
47 member's date of death but before having received the remainder of the sixty monthly payments
48 of the retiree's reduced annuity, the reserve for such annuity for the remainder of the sixty-month
49 period shall be paid to the beneficiary's estate.

50 2. Effective July 1, 2000, if a member is married as of the annuity starting date to a
51 person who has been the member's spouse, the member's annuity shall be paid pursuant to the
52 provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the
53 member's choice, with the spouse as the member's designated beneficiary unless the spouse
54 consents in writing to the member electing another available form of payment.

55 3. For members who retire on or after August 28, 1995, in the event such member
56 elected a joint and survivor option [under] **pursuant to** the provisions of this section and the
57 member's eligible spouse or eligible former spouse precedes the member in death, the member's
58 annuity shall revert effective the first of the month following the death of the spouse or eligible
59 former spouse regardless of when the board receives the member's written application for the
60 benefit provided in this subsection, to an amount equal to the member's normal annuity, as
61 adjusted for early retirement if applicable; such benefit shall include any increases the member
62 would have received since the date of retirement had the member elected a normal annuity.

63 4. Effective on or after August 28, 1995, any retired member who had elected a joint and
64 survivor option and whose spouse or eligible former spouse precedes or preceded the member
65 in death shall upon application to the board be made, constituted, appointed and employed by
66 the board as a special consultant on the problems of retirement, aging and other state matters.
67 As a special consultant pursuant to the provisions of this section, the member's reduced annuity
68 shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first
69 of the month following the death of the spouse or eligible former spouse or August 28, 1995,
70 whichever is later, regardless of when the board receives the member's written application; such
71 annuity shall include any increases the retired member would have received since the date of
72 retirement had the member elected a normal annuity.

73 5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the
74 date retirement benefits are initiated if the member makes such election within one year from the
75 date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

76 (1) The member elected to receive a normal annuity and was not eligible to elect option
77 1 or 2 on the date retirement benefits were initiated; or

78 (2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of
79 this section and the member remarried.

80 6. Any person who terminates employment or retires prior to July 1, 2000, shall be made,

81 constituted, appointed and employed by the board as a special consultant on the problems of
82 retirement, aging and other state matters, and for such services shall be eligible to elect to receive
83 the benefits described in subsection 5 of this section.

84 **7. Effective September 1, 2001, the retirement application of any member who fails**
85 **to make an election pursuant to subsection 1 of this section within ninety days of the**
86 **annuity starting date contained in such retirement application shall be nullified. Any**
87 **member whose retirement application is nullified shall not receive retirement benefits until**
88 **the member files a new application for retirement pursuant to section 104.401 and makes**
89 **the election pursuant to subsection 1 of this section. In no event shall any retroactive**
90 **retirement benefits be paid.**

104.401. 1. Any member may retire with the annuity provided for in section 104.335,
2 104.370, 104.371, 104.374 or 104.400 upon the member's written application to the board
3 designating the annuity starting date which shall be the first day of the month with respect to
4 which an amount is paid as annuity; except that at the time of the annuity starting date, the
5 member must have attained the normal retirement age or meet the eligibility requirements of
6 subsection 2 of section 104.400 and must have sufficient years of creditable service. The annuity
7 starting date shall **not** be [not less than thirty days nor more than ninety days subsequent to the
8 execution and filing of such application] **earlier than the first day of the second month**
9 **following the month of the execution and filing of such application nor later than the first**
10 **day of the fourth month following the month of the execution and filing of such application.**
11 The annuity shall commence in the month of the annuity starting date specified by the member
12 in such application. The payment of the monthly service retirement annuity shall be made by the
13 last day of each month, providing all documentation required pursuant to section 104.395 for the
14 calculation and payment of the benefits is received by the board. The member shall designate
15 a beneficiary to receive any final monthly payment due after the death of the member if no
16 survivor annuity is payable.

17 2. Nothing in sections 104.010 and 104.320 to 104.800 shall be construed as prohibiting
18 a member from waiving the member's right to receive the member's monthly annuity for a period
19 of time that the member chooses. However, the waiver may not extend beyond the age permitted
20 by Section 401(a)(9) of the Internal Revenue Code. The waiver shall be final as to benefits
21 waived.

104.420. 1. Unless otherwise provided by law, if a member or disabled member [has
2 five or more years of vesting service and] **who has a vested right to a normal annuity** dies
3 prior to retirement, regardless of the age of the member at the time of death, the member's or
4 disabled member's surviving spouse, to whom the member or disabled member was married on
5 the date of the member's death, if any, shall receive the reduced survivorship benefits provided

6 in option 1 of section 104.395 calculated as if the member were of normal retirement age and had
7 retired as of the date of the member's death and had elected option 1.

8 2. If there is no eligible surviving spouse, **or when a spouse annuity has ceased to be**
9 **payable**, the member's or disabled member's eligible surviving children under twenty-one years
10 of age shall receive monthly, in equal shares, an amount equal to [one-half] **eighty percent** of
11 the member's or disabled member's accrued annuity calculated as if the member or disabled
12 member were of a normal retirement age and retired as of the date of death. Benefits otherwise
13 payable to a child under eighteen years of age shall be payable to the surviving parent as natural
14 guardian of such child if such parent has custody or assumes custody of such minor child, or to
15 the legal guardian of such child, until such child attains age eighteen; thereafter, the benefit may
16 be paid to the child until age twenty-one; **provided the age twenty-one maximum shall be**
17 **extended for any child who has been found totally incapacitated by a court of competent**
18 **jurisdiction.**

19 3. No benefit is payable pursuant to this section if no eligible surviving spouse or
20 children under twenty-one years of age survive the member or disabled member. Benefits cease
21 pursuant to this section when there is no eligible surviving beneficiary through either death of
22 the eligible surviving spouse or through either death or the attainment of twenty-one years of age
23 by the eligible surviving children. If the member's or disabled member's surviving children are
24 receiving equal shares of the benefit described in subsection 2 of this section, and one or more
25 of such children become ineligible by reason of death or the attainment of twenty-one years of
26 age, the benefit shall be reallocated so that the remaining eligible children receive equal shares
27 of the total benefit as described in subsection 2 of this section.

28 4. For the purpose of computing the amount of an annuity payable pursuant to this
29 section, if the board finds that the death was the natural and proximate result of a personal injury
30 or disease arising out of and in the course of the member's actual performance of duty as an
31 employee, then the minimum annuity to such member's surviving spouse or, if no surviving
32 spouse benefits are payable, the minimum annuity that shall be divided among and paid to such
33 member's surviving children shall be fifty percent of the member's final average compensation;
34 **except that for members of the general assembly and statewide elected officials with twelve**
35 **or more years of service, the monthly rate of compensation in effect on the date of death**
36 **shall be used in lieu of final average compensation.** The vesting service requirement of
37 subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

104.450. The board of trustees shall consist of the state treasurer, the commissioner of
2 administration, two members of the senate appointed by the president pro tem of the senate, two
3 members of the house of representatives appointed by the speaker of the house, two members
4 appointed by the governor [for a four-year term during the governor's term of office], and three

5 members who are members of the system, one of whom shall be a retiree elected by a plurality
6 vote of retired members and two of whom shall be employees, elected by a plurality vote of the
7 members of the system not retired for four-year terms. The board so constituted shall determine
8 the procedures for nomination and election of the elective board members. The first two trustees
9 designated above shall serve as trustees during their respective terms of office [and]; the
10 legislative members shall serve as trustees [during their terms as members of the general
11 assembly] **until such time as they resign, are no longer members of the general assembly,**
12 **or are replaced by new appointments; and the members appointed by the governor shall**
13 **serve as trustees until such time as they resign or are replaced by new appointments.** Any
14 vacancies occurring in the office of trustees shall be filled in the same manner as the office was
15 filled previously except that vacancies occurring in the offices of the elected board members may
16 be filled by the board of trustees until the next regularly scheduled election.

104.515. 1. Separate accounts for medical, life insurance and disability benefits
2 provided [under] **pursuant to** sections 104.517 and 104.518 shall be established as part of the
3 fund. The funds, property and return on investments of the separate account shall not be
4 commingled with any other funds, property and investment return of the system. All benefits and
5 premiums are paid solely from the separate account for medical, life insurance and disability
6 benefits provided [under] **pursuant to** this section.

7 2. The state shall contribute an amount as appropriated by law and approved by the
8 governor per month [per employee for medical benefits and, based on competitive bids, up to
9 five dollars per month per employee] for **medical benefits, life insurance and long-term**
10 **disability benefits as provided pursuant to sections 104.515, 104.517 and 104.518. Such**
11 **amounts shall include the cost of providing** life insurance benefits for each active employee
12 who is a member of the Missouri state employees' retirement system, a member of the public
13 school retirement system and who is employed by a state agency other than an institution of
14 higher learning, a member of the retirement system established by sections 287.812 to 287.855,
15 RSMo, the judicial retirement system, each legislator and official holding an elective state office,
16 members not on payroll status who are receiving workers' compensation benefits, and if the state
17 highways and transportation commission so elects, those employees who are members of the
18 state transportation department employees' and highway patrol retirement system; if the state
19 highways and transportation commission so elects to join the plan, the state shall contribute an
20 amount as appropriated by law for medical benefits for those employees who are members of the
21 transportation department employees' and highway patrol retirement system; an additional
22 amount equal to the amount required, based on competitive bidding or determined actuarially,
23 to fund the retired members' death benefit or life insurance benefit, or both, provided in
24 subsection 4 of this section and the disability benefits provided in section 104.518. This amount

25 shall be reported as a separate item in the monthly certification of required contributions which
26 the commissioner of administration submits to the state treasurer and shall be deposited to the
27 separate account for medical, life insurance and disability benefits. All contributions made on
28 behalf of members of the state transportation department employees' and highway patrol
29 retirement system shall be made from highway funds. If the highways and transportation
30 commission so elects, the spouses and unemancipated children under twenty-three years of age
31 of employees who are members of the state transportation department employees' and highway
32 patrol retirement system shall be able to participate in the program of insurance benefits to cover
33 medical expenses [under] **pursuant to** the provisions of subsection 3 of this section.

34 3. The board shall determine the premium amounts required for participating employees.
35 The premium amounts shall be the amount, which, together with the state's contribution, is
36 required to fund the benefits provided, taking into account necessary actuarial reserves. Separate
37 premiums shall be established for employees' benefits and a separate premium or schedule of
38 premiums shall be established for benefits for spouses and unemancipated children under
39 twenty-three years of age of participating employees. The employee's premiums for spouse and
40 children benefits shall be established to cover that portion of the cost of such benefits which is
41 not paid for by contributions by the state. All such premium amounts shall be paid to the board
42 of trustees at the time that each employee's wages or salary would normally be paid. The
43 premium amounts so remitted will be placed in the separate account for medical, life insurance
44 and disability benefits. In lieu of the availability of premium deductions, the board may establish
45 alternative methods for the collection of premium amounts.

46 4. Each special consultant eligible for life benefits employed by a board of trustees of
47 a retirement system as provided in section 104.610 who is a member of the Missouri state life
48 insurance plan or Missouri state transportation department and Missouri state highway patrol life
49 insurance plan shall, in addition to duties prescribed in section 104.610 or any other law, and
50 upon request of the board of trustees, give the board, orally or in writing, a short detailed
51 statement on life insurance and death benefit problems affecting retirees. As compensation for
52 the extra duty imposed by this subsection, any special consultant as defined above, other than
53 a special consultant entitled to a deferred normal annuity [under] **pursuant to** section 104.035
54 or 104.335, who retires on or after September 28, 1985, shall receive as a part of compensation
55 for these extra duties, a death benefit of five thousand dollars. In addition, each special
56 consultant who is a member of the transportation department employees' and highway patrol
57 retirement system medical insurance plan shall also provide the board, upon request of the board,
58 orally or in writing, a short detailed statement on physical, medical and health problems affecting
59 retirees. As compensation for this extra duty, each special consultant as defined above shall
60 receive, in addition to all other compensation provided by law, nine dollars, or an amount

61 equivalent to that provided to other special consultants [under] **pursuant to** the provisions of
62 section 103.115, RSMo. In addition, any special consultant as defined in section 287.820,
63 RSMo, or section 476.601, RSMo, who terminates employment and immediately retires on or
64 after August 28, 1995, shall receive as a part of compensation for these duties, a death benefit
65 of five thousand dollars.

66 5. Any former employee who is receiving disability income benefits from the Missouri
67 state employees' retirement system or the transportation department employees' and highway
68 patrol retirement system shall, upon application with the board of trustees of the Missouri
69 consolidated health care plan or the transportation department employees and highway patrol
70 medical plan, be made, constituted, appointed and employed by the respective board as a special
71 consultant on the problems of the health of disability income recipients and, upon request of the
72 board of trustees of each medical plan, give the board, orally or in writing, a short detailed
73 statement of physical, medical and health problems affecting disability income recipients. As
74 compensation for the extra duty imposed by this subsection, each such special consultant as
75 defined in this subsection may receive, in addition to all other compensation provided by law,
76 an amount contributed toward medical benefits coverage provided by the Missouri consolidated
77 health care plan or the transportation employees and highway patrol medical plan pursuant to
78 appropriations.

104.518. 1. The board shall provide or contract, or both, for disability income benefits
2 for employees [under] **pursuant to** sections 104.320 to 104.540, and persons covered by the
3 provisions of sections 287.812 to 287.855, RSMo, and an employee covered [under] **pursuant**
4 **to** the provisions of subdivision (4) of subsection 1 of section 476.515, RSMo, as follows:

5 (1) Members of the water patrol who qualify for receiving benefits [under] **pursuant to**
6 subsection 1 of section 104.410 are not eligible for benefits [under] **pursuant to** this section.
7 Members of the water patrol who do not qualify for receiving benefits [under] **pursuant to**
8 subsection 1 of section 104.410 are eligible for benefits [under] **pursuant to** this section;

9 (2) Effective January 1, 1986, employees other than members of the water patrol who
10 qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 shall be
11 eligible for coverage on the first of the month following the date of employment;

12 (3) Definitions of disability and other rules and procedures necessary for the operation
13 and administration of the disability benefit shall be established by the board **provided that such**
14 **definitions, rules and procedures may be established in any contract between the board**
15 **and any insurer or service organization to provide the disability benefits provided for**
16 **pursuant to this section or in any policy issued to the board by such insurer or service**
17 **organization;**

18 (4) An employee may elect to waive the receipt of the disability benefit provided for

19 [under] pursuant to this section at any time.

20 **2. To the extent that the board enters or has entered into any contract with any**
21 **insurer or service organization to provide the disability benefits provided for pursuant to**
22 **this section:**

23 **(1) The obligation to provide such disability benefits shall be primarily that of the**
24 **insurer or service organization and secondarily that of the board;**

25 **(2) Any member who has been denied disability benefits by the insurer or service**
26 **organization and has exhausted all appeal procedures provided by the insurer or service**
27 **organization may appeal such decision by filing a petition against the insurer or service**
28 **organization in a court of law in the member's county of residence;**

29 **(3) The board and the system shall not be liable for the disability benefits provided**
30 **for by an insurer or service organization pursuant to this section and shall not be subject**
31 **to any cause of action with regard to disability benefits or the denial of disability benefits**
32 **by the insurer or service organization unless the member has obtained judgment against**
33 **the insurer or service organization for disability benefits and the insurer or service**
34 **organization is unable to satisfy that judgment.**

104.530. The Missouri state employees' retirement system may sue and be sued in its
2 official name, but its officers and employees shall not be personally liable for acts of the system.
3 **The board may indemnify, protect, defend and hold harmless the trustees, officers and**
4 **employees of the system against all claims and suits for negligent or wrongful acts alleged**
5 **to have been committed in the scope of their service or employment or under the direction**
6 **of the trustees provided that the trustees, officers and employees of the system shall not be**
7 **indemnified for willful misconduct or gross negligence. The board is authorized to insure**
8 **against loss or liability of the trustees, officers and employees of the system that may result**
9 **from claims and suits for negligent or wrongful acts alleged to have been committed in the**
10 **scope of their service or employment or under the direction of the trustees. This insurance**
11 **shall be carried through a company that is licensed to write such coverage in this state. The**
12 service of all legal process and of all notices which may be required to be in writing, whether in
13 legal proceedings or otherwise, shall be made on the executive director or in his or her absence,
14 on the executive director's designee at his or her office. All suits or proceedings directly or
15 indirectly against the system shall be brought in Cole County, except that suits or proceedings
16 involving payment of disability benefits may be brought, at the election of the beneficiary, in the
17 county of residence of the beneficiary.

[104.600. 1. A member of either the transportation department employees'
2 and highway patrol retirement system, or the state employees' retirement system, who
3 leaves his employment and within one month becomes a member of the other system
4 may transfer his accumulated contributions from the one system to the other system.

5 In such event, whether contributions have been made or not, if there are no
6 accumulated contributions for all or any part of the prior service under the member's
7 first employment, he shall nevertheless receive credit for all time served as a member
8 of the prior system. Credit for prior service shall include all prior service credit
9 which has been given by the department from which the member shall have
10 transferred.

11 2. The board of trustees of each of the retirement systems shall prescribe the
12 rules and regulations necessary to carry out the purpose of this section.]

104.601. Any member retiring [under] **pursuant to** the provisions of this chapter or any
2 member retiring [under] **pursuant to** provisions of chapter 169, RSMo, who is a member of the
3 public school retirement system and who is employed by a state agency other than an institution
4 of higher learning, after working continuously until reaching retirement age, shall be credited
5 with all his **or her** unused sick leave as certified by his **or her** employing agency. When
6 calculating years of service, each member shall be entitled to one-twelfth of a year of creditable
7 service for each [twenty-one days] **one hundred sixty-eight hours** of unused accumulated sick
8 leave earned by [him] **the member**. The rate of accrual of sick leave for purposes of computing
9 years of service as this section applies to legislative, executive and judicial employees shall be
10 consistent with the rate of accrual as specified by regulations of the personnel advisory board
11 pursuant to section 36.350, RSMo. Nothing under this section shall allow a member to vest in
12 the retirement system by using such credited sick leave to reach the time of vesting.

104.602. 1. Any [employee] **member** as defined in section 104.010 [who, on or after
2 August 13, 1988, has or accumulates one year of continuous service] may elect **prior to**
3 **retirement** to receive creditable service with the system of which he or she is a current member
4 equal to all creditable service **or any forfeited service** performed for a department covered by
5 the other system. In no event shall a member under either system established pursuant to this
6 chapter receive credit in more than one system for the same period of service.

7 2. If a member dies before retirement and prior to exercising transfer rights pursuant to
8 the provisions of this section, the survivor may elect to receive survivor benefits that shall be
9 computed as if the member had in fact exercised the member's transfer rights to produce the most
10 advantageous benefit possible. In this instance, the benefit shall be paid by the system that
11 provides the most advantageous benefit. If there is no advantage in one system or the other after
12 the transfer of creditable service, the benefit shall be paid by the system that the member last
13 accrued service under prior to the date of the death of the member.

104.625. Any member retiring pursuant to the provisions of sections 104.010 to
2 **104.801, except an elected official or a member of the general assembly, who has not been**
3 **paid retirement benefits and continues employment for at least two years beyond normal**
4 **retirement age, may elect to receive an annuity and lump sum payment or payments,**

5 **determined as follows:**

6 **(1) A retroactive starting date shall be established which shall be the later of the**
7 **date when a normal annuity would have first been payable had the member retired at that**
8 **time or five years before the annuity starting date, which shall be the first day of the month**
9 **with respect to which an amount is paid as annuity pursuant to this section;**

10 **(2) The prospective annuity payable as of the annuity starting date shall be**
11 **determined pursuant to the provisions otherwise applicable under the law, with the**
12 **exception that it shall be the amount which would have been payable had the member**
13 **actually retired on the retroactive starting date. Other than for the lump sum payment or**
14 **payments specified in subdivision (3) of this section, no other amount shall be due for the**
15 **period between the retroactive starting date and the annuity starting date;**

16 **(3) The lump sum payable shall be ninety percent of the annuity amounts which**
17 **would have been paid to the member from the retroactive starting date to the annuity**
18 **starting date had the member actually retired on the retroactive starting date and received**
19 **a normal annuity. The member shall elect to receive the lump sum amount either in its**
20 **entirety at the same time as the initial annuity payment is made or in three equal annual**
21 **installments with the first payment made at the same time as the initial annuity payment;**
22 **and**

23 **(4) Any annuity payable pursuant to this section that is subject to a division of**
24 **benefit order pursuant to section 104.312 shall be calculated as follows:**

25 **(a) Any service of a member between the retroactive starting date and the annuity**
26 **starting date shall not be considered creditable service except for purposes of calculating**
27 **the division of benefit; and**

28 **(b) The lump sum payment described in subdivision (3) of this section shall not be**
subject to any division of benefit order.

104.1003. Unless a different meaning is plainly required by the context, the following
2 words and phrases as used in sections 104.1003 to 104.1093 shall mean:

3 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

4 (2) "Actuary", an actuary who is experienced in retirement plan financing and who is
5 either a member of the American Academy of Actuaries or an enrolled actuary under the
6 Employee Retirement Income Security Act of 1974;

7 (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds
8 provided for in, or authorized by, sections 104.1003 to 104.1093;

9 (4) "Annuity starting date" means the first day of the first month with respect to which
10 an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

11 (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit

12 pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

13 (6) "Board of trustees", "board", or "trustees", a governing body or bodies established
14 for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

15 (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a
16 system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a
17 member of the closed plan, but the closed plan shall continue to function for the benefit of
18 persons covered by and remaining in the closed plan and their beneficiaries;

19 (8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the
20 United States, or its successor index, as approved by the board, as such index is defined and
21 officially reported by the United States Department of Labor, or its successor agency;

22 (9) "Credited service", the total credited service to a member's credit as provided in
23 sections 104.1003 to 104.1093;

24 (10) "Department", any department or agency of the executive, legislative, or judicial
25 branch of the state of Missouri receiving state appropriations, including allocated funds from the
26 federal government but not including any body corporate or politic unless its employees are
27 eligible for retirement coverage from a system [under] **pursuant to** this chapter as otherwise
28 provided by law;

29 (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and
30 the completion of at least five years of credited service;

31 (12) "Effective date", July 1, 2000;

32 (13) "Employee" shall be any person who is employed by a department and is paid a
33 salary or wage by a department in a position normally requiring the performance of duties of not
34 less than one thousand hours per year, provided:

35 (a) The term "employee" shall not include any patient or inmate of any state, charitable,
36 penal or correctional institution, or any person who is employed by a department in a position
37 that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

38 (b) The term "employee" shall be modified as provided by other provisions of sections
39 104.1003 to 104.1093;

40 **(c) The system shall consider a person who is employed in multiple positions**
41 **simultaneously within a single agency to be working in a single position for purposes of**
42 **determining whether the person is an employee as defined in this subdivision;**

43 **(d) Beginning September 1, 2001, the term "year" as used in this subdivision shall**
44 **mean the twelve-month period beginning on the first day of employment;**

45 (14) "Employer", a department;

46 (15) "Executive director", the executive director employed by a board established [under]
47 **pursuant to** the provisions of sections 104.1003 to 104.1093;

48 (16) "Final average pay", the average pay of a member for the thirty-six full consecutive
49 months of service before termination of employment when the member's pay was greatest; or if
50 the member was on workers' compensation leave of absence or a medical leave of absence due
51 to an employee illness, the amount of pay the member would have received but for such leave
52 of absence as reported and verified by the employing department; or if the member was employed
53 for less than thirty-six months, the average monthly pay of a member during the period for which
54 the member was employed;

55 (17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to
56 104.1093;

57 (18) "Investment return", "interest", rates as shall be determined and prescribed from
58 time to time by a board;

59 (19) "Member", a person who is included in the membership of the system, as set forth
60 in section 104.1009;

61 (20) "Normal retirement eligibility", a member's attainment of at least sixty-two years
62 of age and the completion of at least five or more years of credited service or, the attainment of
63 at least fifty years of age with a total of years of age and years of credited service which is at least
64 eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory
65 retirement provisions of section 104.080, the mandatory retirement age and completion of five
66 years of credited service or, the attainment of at least fifty years of age with a total of years of age
67 and years of credited service which is at least eighty;

68 (21) "Pay" shall include:

69 (a) All salary and wages payable to an employee for personal services performed for a
70 department; but excluding:

71 a. Any amounts paid after an employee's employment is terminated, unless the payment
72 is made as a final installment of salary or wages at the same rate as in effect immediately prior
73 to termination of employment in accordance with a state payroll system adopted on or after
74 January 1, 2000;

75 b. Any amounts paid upon termination of employment for unused annual leave or unused
76 sick leave; [and]

77 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue
78 Code of 1986 as amended and other applicable federal laws or regulations; **and**

79 **d. Any nonrecurring single sum payments;**

80 (b) All salary and wages which would have been payable to an employee on workers'
81 compensation leave of absence during the period the employee is receiving a weekly workers'
82 compensation benefit, as reported and verified by the employing department;

83 (c) All salary and wages which would have been payable to an employee on a medical

84 leave due to employee illness, as reported and verified by the employing department;

85 (d) For purposes of members of the general assembly, pay shall be the annual salary
86 provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary
87 adjustment pursuant to section 21.140, RSMo;

88 (22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the
89 person's employment record;

90 (23) "State", the state of Missouri;

91 (24) "System" or "retirement system", the Missouri state employees' retirement system
92 or the transportation department and highway patrol retirement system, as the case may be;

93 (25) "Vested former member", a person entitled to receive a deferred annuity pursuant
94 to section 104.1036;

95 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1021. 1. The appropriate board shall determine how much credited service shall be
2 given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an annuity pursuant to
4 the year 2000 plan, or becomes a vested former member at the time of termination the member's
5 or former member's unused sick leave as certified by the member's employing department for
6 which the member has not been paid will be converted to credited service at the time of
7 application for retirement benefits. The member shall receive one-twelfth of a year of credited
8 service for each one hundred and sixty-eight hours of such unused sick leave. Such credited
9 service shall not be used in determining the member's eligibility for retirement or final average
10 pay. Such credited service shall be added to the credited service in the last position of
11 employment held as a member of the system.

12 3. If a member is employed in a covered position and simultaneously employed in one
13 or more other covered or noncovered positions, credited service shall be determined as if all such
14 employment were in one position, and covered pay shall be the total of pay for all such positions.

15 4. In calculating any annuity, credited service means a period expressed as whole years
16 and any fraction of a year measured in twelfths that begins on the date an employee commences
17 employment in a covered position and ends on the date such employee's membership terminates
18 pursuant to section 104.1018 plus any additional period for which the employee is credited with
19 service **[under] pursuant to** this section.

20 5. A member shall be credited for all military service after membership commences as
21 required by state and federal law.

22 6. Any member who had active military service in the United States Army, Air Force,
23 Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component
24 thereof prior to becoming a member, or who is otherwise ineligible to receive credited service

25 pursuant to subsection 1 or 5 of this section, and who became a member after the person's
26 discharge from military service under honorable conditions may elect, prior to retirement, to
27 purchase credited service for all such military service, but not to exceed four years, provided the
28 person is not receiving and is not eligible to receive retirement credits or benefits from any other
29 public or private retirement plan, other than a United States military service retirement system,
30 for the military service to be purchased, and an affidavit so stating is filed by the member with
31 the year 2000 plan along with the submission of appropriate documentation verifying the
32 member's dates of active service. The purchase shall be effected by the member paying to the
33 system an amount equal to the state's contributions that would have been made to the system on
34 the member's behalf had the member been a member for the period for which the member is
35 electing to purchase credit and had the member's pay during such period of membership been the
36 same as the annual pay rate as of the date the member was initially employed as a member, with
37 the calculations based on the contribution rate in effect on the date of such member's employment
38 with simple interest calculated from the date of employment to the date of election [under]
39 **pursuant to** this subsection. The payment shall be made over a period of not longer than two
40 years, measured from the date of election, and with simple interest on the unpaid balance. If a
41 member who purchased credited service pursuant to this subsection dies prior to retirement, the
42 surviving spouse may, upon written request, receive a refund of the amount contributed for such
43 purchase of such credited service, provided the surviving spouse is not entitled to survivorship
44 benefits payable pursuant to the provisions of section 104.1030.

45 7. Any member of the Missouri state employees' retirement system shall receive credited
46 service for the creditable prior service that such employee would have been entitled to under the
47 closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection
48 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section
49 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not
50 been credited under the closed plan.

51 8. Any member who has service in both systems and dies or terminates employment shall
52 have the member's service in the other system transferred to the last system that covered such
53 member and any annuity payable to such member shall be paid by that system. Any such
54 member may elect to transfer service between systems prior to termination of employment,
55 provided, any annuity payable to such member shall be paid by the last system that covered such
56 member prior to the receipt of such annuity.

57 9. In no event shall any person or member receive credited service pursuant to the year
58 2000 plan if that same service is credited for retirement benefits under any defined benefit
59 retirement system not created pursuant to this chapter.

60 10. Any additional credited service as described in subsections 5 to 7 of this section shall

61 be added to the credited service in the first position of employment held as a member of the
62 system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be
63 added to the credited service in the position of employment held at the time the member
64 completes the purchase or transfer pursuant to such section.

65 11. [A member may not use credited or creditable service that is purchased by the
66 member to meet] **A member may not purchase any credited service described in this section**
67 **unless the member has met** the five-year minimum service requirement as provided in
68 subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum
69 service requirement as provided in section 104.1084, or the four-year minimum service
70 requirement as provided in section 104.1084.

104.1024. 1. Any member who terminates employment may retire on or after attaining
2 normal retirement eligibility by making application in written form and manner approved by the
3 appropriate board. The written application shall set forth the annuity starting date which shall
4 **not** be [not less than thirty days nor more than ninety days subsequent to] **earlier than the first**
5 **day of the second month following the month of the execution and filing of the member's**
6 **application for retirement nor later than the first day of the fourth month following the**
7 **month of the execution and filing of the member's application for retirement.**

8 2. A member's annuity shall be paid in the form of a life annuity, except as provided in
9 section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the
10 final average pay of the member multiplied by the member's years of credited service.

11 3. The life annuity defined in subsection 2 of this section shall not be less than a monthly
12 amount equal to fifteen dollars multiplied by the member's full years of credited service.

13 4. If as of the annuity starting date of a member who has attained normal retirement
14 eligibility the sum of the member's years of age and years of credited service equals eighty or
15 more years and if the member's age is at least fifty years but less than sixty-two years, or, in the
16 case of a member of the highway patrol who shall be subject to the mandatory retirement
17 provision of section 104.080, the mandatory retirement age and completion of five years of
18 credited service, then in addition to the life annuity described in subsection 2 of this section, the
19 member shall receive a temporary annuity equal to eight-tenths of one percent of the member's
20 final average pay multiplied by the member's years of credited service. The temporary annuity
21 and any cost-of-living adjustments attributable to the temporary annuity pursuant to section
22 104.1045 shall terminate at the end of the calendar month in which the earlier of the following
23 events occurs: the member's death or the member's attainment of the earliest age of eligibility
24 for reduced Social Security retirement benefits.

25 5. The annuity described in subsection 2 of this section for any person who has credited
26 service not covered by the federal Social Security Act, as provided in sections 105.300 to

27 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two
28 and five-tenths percent of the final average pay of the member multiplied by the number of years
29 of service not covered by the federal Social Security Act in addition to one and seven-tenths
30 percent of the final average pay of the member multiplied by the member's years of credited
31 service covered by the federal Social Security Act.

32 **6. Any member, except an elected official or a member of the general assembly, who**
33 **has not been paid retirement benefits and continues employment for at least two years**
34 **beyond the date of normal retirement eligibility, may elect to receive an annuity and lump**
35 **sum payment or payments, determined as follows:**

36 **(1) A retroactive starting date shall be established which shall be the later of the**
37 **first day of retirement eligibility or five years before the annuity starting date;**

38 **(2) The prospective annuity payable as of the annuity starting date shall be**
39 **determined pursuant to the provisions of this section, with the exception that it shall be the**
40 **amount which would have been payable at the annuity starting date had the member**
41 **actually retired on the retroactive starting date. Other than for the lump sum payment or**
42 **payments specified in subdivision (3) of this subsection, no other amount shall be due for**
43 **the period between the retroactive starting date and the annuity starting date;**

44 **(3) The lump sum payable shall be ninety percent of the annuity amounts which**
45 **would have been paid to the member from the retroactive starting date to the annuity**
46 **starting date had the member actually retired on the retroactive starting date and received**
47 **a life annuity. The member shall elect to receive the lump sum amount either in its entirety**
48 **at the same time as the initial annuity payment is made or in three equal annual**
49 **installments with the first payment made at the same time as the initial annuity payment;**
50 **and**

51 **(4) Any annuity payable pursuant to this section that is subject to a division of**
52 **benefit order pursuant to section 104.1051 shall be calculated as follows:**

53 **(a) Any service of a member between the retroactive starting date and the annuity**
54 **starting date shall not be considered credited service except for purposes of calculating the**
55 **division of benefit; and**

56 **(b) The lump sum payment described in subdivision (3) of this section shall not be**
57 **subject to any division of benefit order.**

104.1027. 1. Prior to the last business day of the month before the annuity starting date,
2 a member or a vested former member shall elect whether or not to have such member's or such
3 vested former member's life annuity reduced, but not any temporary annuity which may be
4 payable, and designate a beneficiary, as provided by the options set forth in this section; provided
5 that if such election has not been made within such time, annuity payments due beginning on and

6 after the month of the annuity starting date shall be made the month following the receipt by the
7 appropriate system of such election and any other information required by the year 2000 plan
8 created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the
9 annuity starting date but before making such election and providing such other information, no
10 benefits shall be paid except as required [under] **pursuant to** section 104.1030:

11 Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity
12 otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age
13 on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one
14 percent for each year the retiree's age is younger than age sixty-two years, to a maximum increase
15 of three and six-tenths percent; and if the beneficiary's age is younger than the retiree's age on
16 the annuity starting date, a decrease of three-tenths of one percent for each year of age difference;
17 and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an
18 increase of three-tenths of one percent for each year of age difference; provided, after all
19 adjustments the option 1 percent cannot exceed ninety-five percent. Upon the retiree's death,
20 fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the
21 retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this
22 section.

23 Option 2. A retiree's life annuity shall be reduced to a certain percent of the annuity
24 otherwise payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's
25 age on the annuity starting date is younger than sixty-two years, an increase of four-tenths of one
26 percent for each year the retiree's age is younger than sixty-two years, to a maximum increase of
27 four and eight-tenths percent; and if the beneficiary's age is younger than the retiree's age on the
28 annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and
29 if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase
30 of five-tenths of one percent for each year of age difference; provided, after all adjustments the
31 option 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred percent of
32 the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the
33 annuity starting date or as otherwise provided by subsection 5 of this section.

34 Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity
35 otherwise payable. If the retiree dies before having received one hundred twenty monthly
36 payments, the reduced annuity shall be continued for the remainder of the one hundred
37 twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary
38 surviving the retiree, the present value of the remaining annuity payments shall be paid to the
39 retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of
40 such one hundred twenty monthly payments, the present value of the remaining annuity payments
41 shall be paid to the beneficiary's estate.

42 Option 4. A retiree's life annuity shall be reduced to ninety percent of the annuity
43 otherwise payable. If the retiree dies before having received one hundred eighty monthly
44 payments, the reduced annuity shall be continued for the remainder of the one hundred
45 eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary
46 surviving the retiree, the present value of the remaining annuity payments shall be paid to the
47 retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of
48 such one hundred eighty monthly payments, the present value of the remaining annuity payments
49 shall be paid to the beneficiary's estate.

50 2. If a member is married as of the annuity starting date, the member's annuity shall be
51 paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section,
52 at the member's choice, with the spouse as the member's designated beneficiary unless the spouse
53 consents in writing to the member electing another available form of payment.

54 3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this
55 section and if the member's spouse or eligible former spouse dies after the annuity starting date
56 but before the member dies, then the member may cancel the member's election and return to the
57 life annuity form of payment and annuity amount, effective the first of the month following the
58 date of such spouse's or eligible former spouse's death.

59 4. If a member designates a spouse as a beneficiary [under] **pursuant to** this section and
60 subsequently that marriage ends as a result of a dissolution of marriage, such dissolution shall
61 not affect the option election pursuant to this section and the former spouse shall continue to be
62 eligible to receive survivor benefits upon the death of the member.

63 5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the
64 annuity starting date as described in this section if the member makes such election within one
65 year from the date of marriage or July 1, 2000, whichever is later, pursuant to any of the
66 following circumstances:

67 (1) The member elected to receive a life annuity and was not eligible to elect option 1
68 or 2 on the annuity starting date; or

69 (2) The member's annuity reverted to a normal or early retirement annuity pursuant to
70 subsection 3 of this section, and the member remarried.

71 **6. Effective September 1, 2001, the retirement application of any member who fails**
72 **to make an election pursuant to subsection 1 of this section within ninety days of the**
73 **annuity starting date contained in such retirement application shall be nullified. Any**
74 **member whose retirement application is nullified shall not receive retirement benefits until**
75 **the member files a new application for retirement pursuant to section 104.1024 and makes**
76 **the election pursuant to subsection 1 of this section. In no event shall any retroactive**
77 **retirement benefits be paid.**

104.1030. 1. If a member with five or more years of credited service or a vested former member dies before such member's or such vested former member's annuity starting date, the applicable annuity provided in this section shall be paid.

2. The member's surviving spouse who was married to the member at the date of death shall receive an annuity computed as if such member had:

(1) Retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death, and without reduction if the member's age was younger than normal retirement eligibility;

(2) Elected option 2 provided for in section 104.1027; and

(3) Designated such spouse as beneficiary under such option.

3. If a spouse annuity is not payable pursuant to the provisions of subsection 2 of this section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity computed in the same manner as if the member had retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death and without reduction if the member's age at death was younger than normal retirement eligibility shall be divided equally among the dependent children of the deceased member. A child shall be a dependent child until death or attainment of age twenty-one, whichever occurs first; provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of the dependent annuity shall cease to be paid, and the amounts payable to any remaining dependent children shall be proportionately increased.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of his **or her** actual performance of duty as an employee, then the minimum annuity to such member's spouse or, if no spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's dependent children shall be fifty percent of final average pay. The credited service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

5. The provisions of this section shall apply to members of the general assembly and statewide elected officials except that the credited service and monthly pay requirements described in section 104.1084 shall apply notwithstanding any other language to the contrary contained in this section.

104.1039. If a retiree is employed as an employee by a department[, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition

5 to the original annuity, calculated based only on the credited service and the pay earned by such
6 retiree during reemployment and paid in accordance with the annuity option originally elected;
7 provided such retiree who ceases to receive an annuity under this section shall not receive such
8 additional annuity if such retiree is employed by a department in a position that is covered by a
9 state-sponsored defined benefit retirement plan not created under this chapter. The original
10 annuity and any additional annuity shall be paid commencing as of the end of the first month
11 after the month during which the retiree's reemployment terminates.] **and works more than one**
12 **thousand hours per year regardless of the number of positions held on or after the first day**
13 **of employment, the retiree shall not receive an annuity or additional credited service for**
14 **any month or part of a month for which the retiree is so employed. The system shall**
15 **recover any benefit payments received by the retiree during any year that the retiree works**
16 **more than one thousand hours pursuant to section 104.1060. The term "year" as used in**
17 **this section shall mean the twelve-month period beginning on the annuity starting date and**
18 **each subsequent year thereafter.**

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property
2 and a court of competent jurisdiction may divide such annuity between the parties to any action
3 for dissolution of marriage if at the time of the dissolution the member has at least five years of
4 credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued
5 pursuant to this section:

6 (1) Shall not require the applicable retirement system to provide any form or type of
7 annuity **or retirement plan** not selected by the member;

8 (2) Shall not require the applicable retirement system to commence payments until the
9 member's annuity starting date;

10 (3) Shall identify [a percentage of] the monthly amount to be paid to the former spouse,
11 which shall **be expressed as a percentage and which shall** not exceed fifty percent of the
12 amount of the member's annuity accrued during **all or part of** the period of the marriage of the
13 member and former spouse **and which shall be based on the member's vested annuity on the**
14 **date of the dissolution of marriage or an earlier date as specified in the order**, which amount
15 shall be adjusted proportionately upon the annuity starting date if the member's annuity is
16 reduced due to the receipt of an early retirement annuity;

17 (4) Shall not require the payment of an annuity amount to the member and former spouse
18 which in total exceeds the amount which the member would have received without regard to the
19 order;

20 (5) Shall provide that any annuity increases, temporary annuity received pursuant to
21 subsection 4 of section 104.1024, additional years of credited service, increased final average
22 pay, **increased pay pursuant to subsections 2 and 5 of section 104.1084**, or other type of

23 increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit
24 of the member[,]; except that **on or after September 1, 2001**, any cost-of-living adjustment
25 (COLA) due after the annuity starting date shall [be applied to the amounts received by both the
26 member and the former spouse after the date of dissolution] **not be considered to be an increase**
27 **accrued after the date of termination of marriage and shall be part of the monthly amount**
28 **subject to division pursuant to any order issued after September 1, 2001;**

29 (6) Shall terminate upon the death of either the member or the former spouse, whichever
30 occurs first;

31 (7) Shall not create an interest which is assignable or subject to any legal process;

32 (8) Shall include the name, address, date of birth, and Social Security number of both the
33 member and the former spouse, and the identity of the retirement system to which it applies;

34 (9) Shall be consistent with any other division of benefits orders which are applicable
35 to the same member.

36 2. A system shall provide the court having jurisdiction of a dissolution of a marriage
37 proceeding or the parties to the proceeding with information necessary to issue a division of
38 benefits order concerning a member of the system, upon written request from either the court,
39 the member, or the member's spouse, citing this section and identifying the case number and
40 parties.

41 3. A system shall have the discretionary authority to reject a division of benefits order
42 for the following reasons:

43 (1) The order does not clearly state the rights of the member and the former spouse;

44 (2) The order is inconsistent with any law governing the retirement system.

104.1072. 1. Each board shall provide or contract, or both, for life insurance benefits
2 for employees covered pursuant to the year 2000 plan as follows:

3 (1) Employees shall be provided fifteen thousand dollars of life insurance until
4 December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for
5 basic life insurance for employees covered under any retirement plan administered by the system
6 pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees
7 who are members of the judicial retirement system as provided in section 476.590, RSMo, and,
8 at the election of the state highways and transportation commission, employees who are members
9 of the highways and transportation employees' and highway patrol retirement system, in the
10 amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars.
11 The board shall establish by rule or contract the method for determining the annual rate of pay
12 and any other terms of such insurance as it deems necessary to implement the requirements
13 pursuant to this section. Annual rate of pay shall not include overtime or any other irregular
14 payments as determined by the board. Such life insurance shall provide for triple indemnity in

15 the event the cause of death is a proximate result of a personal injury or disease arising out of and
16 in the course of actual performance of duty as an employee;

17 (2) Upon a member terminating employment and becoming a retiree the month following
18 termination of employment, five thousand dollars of life insurance shall be provided.

19 2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of
20 this section, any person for whom life insurance is provided or contracted for pursuant to such
21 subsection may purchase, at the person's own expense and only if monthly voluntary payroll
22 deductions are authorized, additional life insurance at a cost to be stipulated in a contract with
23 a private insurance company or as may be required by a system if the board of trustees
24 determines that the system should provide such insurance itself. The maximum amount of
25 additional life insurance which may be so purchased is that amount which equals six times the
26 amount of the person's annual rate of pay, subject to any maximum established by a board, except
27 that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum
28 amount of additional insurance which may be purchased is the next higher amount evenly
29 divisible by one thousand dollars.

30 (2) Any person defined in subdivision (1) of this subsection may retain an amount not
31 to exceed sixty thousand dollars of life insurance following the date of his or her retirement if
32 such person becomes a retiree the month following termination of employment and makes
33 written application for such life insurance at the same time such person's application is made to
34 the board for retirement benefits. Such life insurance shall only be provided if such person pays
35 the entire cost of the insurance, as determined by the board, by allowing voluntary deductions
36 from the member's annuity.

37 (3) In addition to the life insurance authorized in subdivision (1) of this subsection, any
38 person for whom life insurance is provided or contracted for pursuant to this subsection may
39 purchase, at the person's own expense and only if monthly voluntary payroll deductions are
40 authorized, life insurance covering the person's children or the person's spouse or both at
41 coverage amounts to be determined by the board at a cost to be stipulated in a contract with a
42 private insurer or as may be required by the system if the board of trustees determines that the
43 system should provide such insurance itself.

44 (4) Effective July 1, 2000, any member who applies and is eligible to receive [a
45 temporary] **an annuity [pursuant to subsection 4 of section 104.1024] based on the attainment**
46 **of at least fifty years of age with a total of years of age and years of credited service which**
47 **is at least eighty** shall be eligible to retain any optional life insurance described in subdivision
48 (1) of this subsection. The amount of such retained insurance shall not be greater than the
49 amount in effect during the month prior to termination of employment. Such insurance may be
50 retained until the [temporary annuity terminates,] **member's attainment of the earliest age for**

51 **eligibility for reduced Social Security retirement benefits** at which time the amount of such
52 insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this
53 subsection.

54 3. The state highways and transportation commission may provide for insurance benefits
55 to cover medical expenses for members of the highways and transportation employees' and
56 highway patrol retirement system. The state highways and transportation commission may
57 provide medical benefits for dependents of members and for retired members. Contributions by
58 the state highways and transportation commission to provide the insurance benefits shall be on
59 the same basis as provided for other state employees pursuant to the provisions of section
60 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members
61 and for retired members and their dependents shall be paid by the members. The state highways
62 and transportation commission may contract for all, or any part of, the insurance benefits
63 provided for in this section. If the state highways and transportation commission contracts for
64 insurance benefits, or for administration of the insurance plan, such contracts shall be entered
65 into on the basis of competitive bids.

66 4. The highways and transportation employees' and highway patrol retirement system
67 may request the state highways and transportation commission to provide life insurance benefits
68 as required in subsections 1 and 2 of this section. If the state highways and transportation
69 commission agrees to the request, the highways and transportation employees' and highway
70 patrol retirement system shall reimburse the state highways and transportation commission for
71 any and all costs for life insurance provided pursuant to subdivision (1) of subsection 1 of this
72 section. The person who is covered pursuant to subsection 2 of this section shall be solely
73 responsible for the costs of any additional life insurance.

104.1078. 1. Separate accounts for medical, life insurance and disability benefits
2 provided [under] **pursuant to** sections 104.1072 and 104.1075 shall be established as part of the
3 fund. The funds, property and return on investments of the separate accounts shall not be
4 commingled with any other funds, property and investment return of a system. All benefits and
5 premiums are paid solely from the separate accounts for medical, life insurance and disability
6 benefits provided in this section.

7 2. The state shall contribute an amount as appropriated by law and approved by the
8 governor per month [per employee] for medical benefits, life insurance, and long-term disability
9 benefits [for each active employee who is a member of a system] **as provided pursuant to**
10 **sections 104.1072 and 104.1075 and such amounts shall include the cost of providing such**
11 **benefits to** members not on payroll status who are receiving workers' compensation benefits.

12 3. Each board shall determine the premium amounts required for participating persons.
13 The premium amounts shall be the amount which, together with the state's contribution, is

14 required to fund the benefits provided, taking into account necessary actuarial reserves. Separate
15 premiums shall be established for employees' benefits and a separate premium or schedule of
16 premiums shall be established for children under twenty-three years of age and for spouses of
17 participating employees. The employee's premiums for spouse and children benefits shall be
18 established to cover that portion of the cost of such benefits which is not paid for by
19 contributions by the state. All such premium amounts shall be paid to a board of trustees at the
20 time that each employee's wages or salary would normally be paid. The premium amounts so
21 remitted will be placed in the separate account for medical, life insurance and disability benefits.
22 In lieu of the availability of premium deductions, each board may establish alternative methods
23 for the collection of premium amounts.

104.1093. Notwithstanding any provision of law to the contrary, any employee,
2 beneficiary[,] or retiree pursuant to sections 104.010 to 104.1093, **any administrative law**
3 **judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any**
4 **judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special**
5 **commissioner pursuant to section 476.450, RSMo,** may designate an agent who shall have the
6 same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700
7 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other
8 benefits. The authority of such agent may be revoked at any time by such employee, beneficiary
9 or retiree. The authority of such agent shall not terminate if such employee, beneficiary or retiree
10 becomes disabled or incapacitated. **The designation shall be effective only upon the disability**
11 **or incapacity of the benefit recipient as determined by that person's physician and**
12 **communicated in writing to the system.**

104.1200. As used in this section and section 104.1215, the following terms mean:

2 (1) "Education employee", any person described in the following classifications
3 who is employed by one of the institutions, otherwise would meet the definition of
4 "employee" pursuant to section 104.010 or 104.1003, and is not employed at a technical or
5 vocational school or college: teaching personnel, instructors, assistant professors, associate
6 professors, professors and academic administrators holding faculty rank;

7 (2) "Institutions", Truman State University, Northwest Missouri State University,
8 Southeast Missouri State University, Southwest Missouri State University, Central
9 Missouri State University, Harris-Stowe State College, Lincoln University, Missouri
10 Western State College and Missouri Southern State College;

11 (3) "Outside employee", any other provisions of sections 104.010 to 104.1093 to the
12 contrary notwithstanding, an education employee first so employed on or after July 1,
13 2002. An outside employee shall not be covered by the other benefit provisions of this
14 chapter, but rather shall be covered by the benefit provisions provided for pursuant to

15 sections 104.1200 to 104.1215.

2 **104.1205.** The board of trustees of the Missouri state employees' retirement system
3 shall:

4 (1) Establish a defined contribution plan for outside employees which, among other
5 things, provides for immediate vesting;

6 (2) Select a third-party administrator to provide such services as the board
7 determines to be necessary for the proper administration of the defined contribution plan;

8 (3) Select the investment products which shall be made available to the participants
9 in the defined contribution plan;

10 (4) Annually establish the contribution rate used for purposes of subsection 3 of
11 section 104.1066 for employees of institutions who are other than outside employees, which
12 shall be done by considering all such employees to be part of the general employee
13 population within the Missouri state employees' retirement system;

14 (5) Establish the contribution rate for outside employees which shall be equal to one
15 percent of payroll less than the normal cost contribution rate established pursuant to
16 subdivision (4) of this section; and

17 (6) Establish such rules and regulations as may be necessary to carry out the
purposes of this section.

2 **104.1210. 1.** In no event shall any outside employee or member of the Missouri
3 state employees' retirement system receive creditable service or credited service in the
4 system for any time period in which such employee or member participated in the defined
5 contribution plan established pursuant to sections 104.1200 to 104.1215.

6 **2.** Institutions and any third-party administrator shall provide such information
7 to the Missouri state employees' retirement system as may be required to implement the
provisions of sections 104.1200 to 104.1215.

2 **104.1215.** Any outside employee who has participated in the defined contribution
3 plan established pursuant to sections 104.1200 to 104.1215 for at least six years may elect
4 to become a member of the Missouri state employees' retirement system. Such employee
5 shall:

6 (1) Make such election while actively employed in a position that would otherwise
7 be eligible for membership in the Missouri state employees' retirement system except for
8 the provisions of sections 104.1200 to 104.1215;

9 (2) Participate in the year 2000 plan; except that such employee shall participate
10 in the closed plan as defined in section 104.1003 if such employee was a member of the
11 closed plan prior to participating in such defined contribution plan;

12 (3) Be considered to have met the service requirements contained in subsection 4

12 of section 104.335 or section 104.1018, whichever is otherwise applicable;

13 (4) Not receive any creditable service or credited service for service rendered while
14 a participant in such defined contribution plan;

15 (5) Forfeit any right to future participation in the defined contribution plan after
16 such election; and

17 (6) Not be eligible to receive credited service pursuant to section 104.1090 based on
18 service rendered while a participant in such defined contribution plan.

476.517. Any judge who is or has been a commissioner or deputy commissioner of
2 the circuit court appointed after February 29, 1972, who has received creditable service
3 pursuant to chapter 104, RSMo, and sections 476.515 to 476.565, based on service as a
4 commissioner or deputy commissioner shall make a one-time retirement plan election upon
5 application to receive retirement benefits. Such judge shall elect to receive retirement
6 benefits based on all of the judge's service as a commissioner or deputy commissioner of
7 the circuit court pursuant to section 104.374, 104.1024 or sections 476.515 to 476.565,
8 RSMo.

476.524. Any judge as defined in section 476.515 who had performed active service in
2 the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast
3 Guard, or any reserve component thereof prior to holding office, may elect prior to retirement,
4 to purchase all of his or her creditable prior service equivalent to such service in the armed
5 forces, but not to exceed four years, if he or she is not receiving and is not eligible to receive
6 retirement credits or benefits from any other public or private retirement plan for the service to
7 be purchased, and an affidavit so stating shall be filed by the judge with the Missouri state
8 employees' retirement system. However, if the judge is eligible to receive retirement credits in
9 a United States military service retirement system, he or she shall be permitted to purchase
10 creditable prior service equivalent to his or her service in the armed forces but not to exceed four
11 years, any other provision of law to the contrary notwithstanding. The purchase shall be effected
12 by the judge's submission of the appropriate documentation verifying the judge's dates of active
13 service and by paying to the Missouri state employees' retirement system an amount equal to
14 what would have been contributed by the state [in his behalf had he been a member for the period
15 for which he is electing to purchase credit and had his compensation during such period of such
16 membership been the same as the annual salary rate at which he was initially employed by the
17 state or when he first became a judge, whichever first occurred, with the calculations based on
18 a contribution rate established by the actuary for the Missouri state employees' retirement system
19 which would be equal to a contribution rate which would be used if the judicial system were
20 founded on an actuarial basis with simple interest at the same rate in effect at the time of election
21 calculated from the time of employment by the state to the date of election under this section]

22 **on the judge's behalf had the judge been a judge for the period for which the judge is**
23 **electing to purchase credit and had the judge's compensation during such period of**
24 **membership been the same as the annual salary rate at which the judge was initially**
25 **employed, with the calculations based on the assumed or actual contribution rate in effect**
26 **on the date of employment with simple interest calculated from the initial date of**
27 **employment of the judge to the date of election pursuant to this section.** The payment shall
28 be made over a period of not longer than two years, measured from the date of election, with
29 simple interest on the unpaid balance. All payments for purchase of service [under] **pursuant**
30 **to** this section shall be set aside in a reserve fund for funding of said benefits. Payments made
31 for such creditable prior service [under] **pursuant to** this section shall be treated by the Missouri
32 state employees' retirement system as would contributions made by the state and shall not be
33 subject to any prohibition on member contributions or refund provisions in effect at the time of
34 enactment of this section.